

**Introduced by Senator Escutia**

February 22, 2005

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An act to add Article 8 (commencing with Section 12418) to Chapter 1 of Part 6 of Division 2 of the Insurance Code, relating to title insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 728, as introduced, Escutia. Title insurance: title solicitors.

Under existing law, the Insurance Commissioner generally regulates insurance, including title insurance.

This bill would prohibit a person from marketing, offering, soliciting, negotiating, or selling title insurance in this state unless the person holds a valid certificate of registration as a title solicitor issued by the commissioner. It would specify the individuals subject to this prohibition, and would provide that a violation of the prohibition is a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program.

The bill would set forth application requirements and procedures for obtaining and renewing a certificate of registration as a title solicitor, and would impose certain other requirements on persons holding this certificate. It would require an officer of a business that employs an applicant for a certificate to sign a specified statement, under penalty of perjury, relating to the applicant. By adding to the circumstances to which the crime of perjury applies, the bill would expand that crime and would thereby impose a state-mandated local program.

The bill would authorize the commissioner to adopt rules and regulations for administering this program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Article 8 (commencing with Section 12418) is added to Chapter 1 of Part 6 of Division 2 of the Insurance Code, to read:

Article 8. Title Solicitors

12418. (a) A person shall not market, offer, solicit, negotiate, or sell title insurance in this state unless the person holds a valid certificate of registration as a title solicitor issued by the commissioner pursuant to Section 12418.2.

(b) For purposes of this chapter, “title solicitor” means a natural person employed to aid a title insurer, underwritten title company, or controlled escrow company in transacting title insurance, and includes, but is not limited to, any natural person who markets, offers, solicits, negotiates, or sells title insurance, regardless of whether the person’s job title is marketing representative, sales representative, marketing sales representative, salesperson, title representative, account representative, escrow officer, escrow representative, or any other job title.

(c) If any person markets, offers, solicits, negotiates, sells, or assumes to act in the capacity of a title solicitor without obtaining a certificate of registration pursuant to Section 12418.2, the commissioner may issue a cease and desist order pursuant to Section 12921.8.

(d) Any person who markets, offers, solicits, negotiates, sells, or assumes to act in the capacity of a title solicitor, without a valid certificate of registration issued by the commissioner, is guilty of a misdemeanor.

12418.1. No certificate of registration is required under the provisions of this article for an employee of a title company,

1 underwritten title company, or controlled escrow company whose  
2 principal job is to perform any of the following services:

- 3 (a) To perform title searches.
- 4 (b) To examine or certify titles to real property.
- 5 (c) To perform title work that does not include the solicitation,  
6 negotiation, or effecting of contracts of title insurance, or the  
7 signing of title insurance policies.
- 8 (d) To perform administrative or clerical work that does not  
9 include the solicitation, negotiation, or effecting of contracts of  
10 title insurance, or the signing of title insurance policies.

11 12418.2. (a) A certificate of registration as a title solicitor  
12 shall be applied for and renewed by filing with the commissioner  
13 a written application. The application shall be on a form  
14 prescribed by the commissioner, and shall prescribe the  
15 disclosure of information that will aid the commissioner in  
16 determining whether the prerequisites for the certificate have  
17 been met. The applicant shall declare, under penalty of perjury,  
18 that the contents of the application are true and correct. The  
19 written application shall be signed by the applicant and by an  
20 officer of the business by whom the applicant will be employed.

21 (b) Each application for a certificate of registration shall  
22 contain the following:

23 (1) The residence address, the principal business address, and  
24 the mailing address of the applicant.

25 (2) A statement, signed under penalty of perjury by an officer  
26 of the business by whom the applicant will be employed,  
27 certifying that the business has satisfied itself that the named  
28 applicant is trustworthy and competent to act as its title solicitor.  
29 Prior to signing this statement, the business shall provide training  
30 to the applicant regarding the antirebate statutes contained in  
31 Article 6 (commencing with Section 12404), and shall submit  
32 annually to the department a statement of compliance for each  
33 applicant for or holder of a certificate of registration.

34 (c) In addition to an application, each applicant for a  
35 certificate of registration shall submit authenticated fingerprints  
36 to the department, in the manner directed by the department.

37 (d) Each application to obtain or renew a certificate of  
38 registration shall be accompanied by a filing fee in an amount or  
39 amounts determined by the department to be sufficient to defray  
40 the department's actual cost of processing the application or

1 renewal. An application shall not be deemed filed unless it has  
2 been delivered to the Licensing Services Division of the  
3 department, accompanied by the proper filing fee.

4 (e) The commissioner may decline to act on an incomplete or  
5 defective application until an amended application that completes  
6 the prescribed form has been filed with the department.

7 12418.3. (a) An applicant or holder of a certificate of  
8 registration as a title solicitor is not required to pass a qualifying  
9 examination, and is exempt from prelicensing and continuing  
10 education requirements, except as specified in this article.

11 (b) Upon the filing of an application for the issuance or  
12 renewal of a certificate of registration, the commissioner may  
13 conduct an investigation and require the filing of any  
14 supplementary documents, affidavits, and statements that may be  
15 necessary to obtain information that will assist him or her in  
16 determining whether the prerequisites for the certificate have  
17 been met.

18 12418.4. (a) Each certificate of registration issued under this  
19 chapter shall be for a two-year period beginning on the date the  
20 certificate is issued.

21 (b) Not less than 60 days before a certificate of registration  
22 will expire, the commissioner may mail an application to renew  
23 the certificate to the last known address appearing on the  
24 registrant's records. It shall be the responsibility of the registrant  
25 to renew his or her certificate, whether or not a renewal notice is  
26 received.

27 (c) The application for renewal of an expired certificate of  
28 registration may be filed after the expiration date and until the  
29 same month and day of the next succeeding year. In addition to  
30 the fee for a renewal application, a delinquent fee in the amount  
31 of fifty dollars (\$50) shall be assessed for each application for  
32 renewal filed after the expiration date. Each registrant shall be  
33 subject to payment of delinquent fees under this subdivision. The  
34 commissioner may waive the delinquent fee, or accept a renewal  
35 filed after the date specified in this subdivision, if the registrant's  
36 failure to comply is due to clerical error or inadvertence on the  
37 part of the department.

38 12418.5. (a) Notwithstanding any other provision of law to  
39 the contrary, the provisions set forth in Sections 1668, 1668.1,  
40 1668.5, 1669, 1670, 1738, 1738.5, 1743, and in Article 6

1 (commencing with Section 12404), shall apply to all applicants  
2 or holders of a certificate of registration issued pursuant to this  
3 article.

4 (b) Any costs associated with an enforcement action or  
5 investigation shall be paid for by the holder of a certificate of  
6 registration issued pursuant to this article.

7 (c) In addition to, or in lieu of, any other penalty that may be  
8 imposed under this article, the commissioner may bring an action  
9 against the business by whom an applicant is employed for any  
10 violation of the antirebate statutes contained in Article 6  
11 (commencing with Section 12404).

12 12418.6. The commissioner may issue rules and regulations,  
13 as necessary, to administer the program established by this  
14 article. Any rules and regulations issued pursuant to this section  
15 may be adopted as emergency regulations in accordance with the  
16 Administrative Procedure Act (Chapter 3.5 (commencing with  
17 Section 11340) of Part 1 of Division 3 of Title 2 of the  
18 Government Code).

19 SEC. 2. No reimbursement is required by this act pursuant to  
20 Section 6 of Article XIII B of the California Constitution because  
21 the only costs that may be incurred by a local agency or school  
22 district will be incurred because this act creates a new crime or  
23 infraction, eliminates a crime or infraction, or changes the  
24 penalty for a crime or infraction, within the meaning of Section  
25 17556 of the Government Code, or changes the definition of a  
26 crime within the meaning of Section 6 of Article XIII B of the  
27 California Constitution.